

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

KARL THOMAS, an individual,

Plaintiff,

vs.

SANDERS COUNTY, a municipal
corporation, LAURIE HINES, an
individual, and ROBERT T. DAY, an
individual,

Defendants.

CV 24-58-M-KLD-DLC

ORDER

United States Magistrate Judge Kathleen L. DeSoto issued her Findings and Recommendation in this case on October 3, 2024, recommending that the Court deny the Sheriff's Department's Rule 12(b)(6) Motion to Dismiss (Doc. 4) as moot. (Doc. 20.) Finding no clear error in Judge DeSoto's Findings and Recommendation, the Court adopts them in full.

Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm

conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

On June 25, 2024, the Sherriff's Department filed a Motion to Dismiss (Doc. 4), arguing that the "the Sheriff" is not a person for purposes of 42 U.S.C. § 1983 litigation, nor is it a separate entity subject to suit. (Doc. 5.) On September 9, 2024, Judge DeSoto issued an order giving Plaintiff Karl Thomas until September 23, 2024, to file an Amended Complaint naming Sanders County instead of the Sheriff's Department as a defendant. (Doc. 17.) In compliance with that order, Thomas timely filed an Amended Complaint substituting Sanders County in place of the Sheriff's Department. (Doc. 18.) Because Thomas filed an Amended Complaint properly identifying Sanders County as a defendant, Judge DeSoto recommends that the Sheriff's Department's Rule 12(b)(6) Motion to Dismiss be denied as moot.

Accordingly, having reviewed Judge DeSoto's Findings and Recommendation for clear error and finding none,

IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 20) is ADOPTED IN FULL.

IT IS FURTHER ORDERED that the Sheriff's Department's Rule 12(b)(6) Motion to Dismiss (Doc. 4) be DENIED as moot.

DATED this 18th day of October, 2024.

A handwritten signature in blue ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large initial "D".

Dana L. Christensen, District Judge
United States District Court